



Final Regulation Agency Background Document

Agency name	Department of Rehabilitative Services
Virginia Administrative Code (VAC) citation	__22__ VAC __30__ - __50__
Regulation title	Policies and Procedures for Administering Commonwealth Neurotrauma Trust Fund Initiative
Action title	2007 Amendment to Regulation as a result of Periodic Review
Date this document prepared	March 24, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The regulations to administer the Commonwealth Neurotrauma Initiative (CNI) Trust Fund are essential to maintaining the purpose, operation, and integrity of the program. The CNI Trust Fund is designed to promote medical research into traumatic brain and spinal cord injuries, and to provide treatment and care for individuals who have sustained such injuries. The substantial amendments to the regulation simplify and clarify several sections of the regulation, making it easier to understand. The regulation change will emphasize that the fund is to be used for innovative research and treatment programs and is not to be used as a source for long term funding; this has been an issue with previous grantees. The regulations were also amended to make the reviewing and ranking of grant applications easier to understand and follow by omitting an itemized list of "weighted" criteria with assigned point values. This area has been changed to include a list of criteria for reviewing and ranking of grant applications, but the criteria are not "weighted" with specific point values. The assigned point values will be included in the actual request for proposals document when it is issued. The regulations simplified the language under the Option B, community-based application priorities section, making the submission requirements clearer to the reader. The amended regulation added a provision that the commissioner can reallocate a limited amount of unexpended balances to fund new research in the area of neurotrauma. This is a new provision resulting from budget amendment language approved by the General Assembly. There are no changes to the regulations from publication of the proposed regulations to the final regulations.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On March 24, 2009, the Department of Rehabilitative Services took final action to adopt the amended regulations pertaining to the Policies and Procedures for Administering Commonwealth Neurotrauma Trust Fund Initiative.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ [51.5-12.4](#). Procedures for grant applications.

The Commissioner of Rehabilitative Services shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Advisory Board prior to promulgating or revising any such regulations.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Neurotrauma Initiative (CNI) Trust Fund are essential to the integrity of the program. The CNI Trust Fund is designed to promote medical research into traumatic brain and spinal cord injuries and to provide treatment and care for individuals who have sustained such injuries. Moneys in the trust fund are to be used solely to support grants for Virginia-based researchers, organizations, and institutions that either conduct research into the mechanism of neurotrauma or that provide medical or rehabilitative treatment and care for individuals with such injuries. The amendment to this regulation will clarify that the fund is to be used for innovative research and treatment programs and is not to be used as a source for longterm funding. The amended regulation will also provide that the commissioner can reallocate a limited amount of unexpended balances to fund new research in the area of neurotrauma.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Most sections in this regulation contain only minor technical changes. The following sections contain substantive changes:

22VAC30-50-30 - Title of catchline has been changed to "Disbursement of funds" to more adequately describe this section. A phrase that funds are to be used for the development of innovative, model programs and services for individuals with neurotrauma has been added. Wording has been changed to ensure that "person first" language is used in the regulations.

22VAC30-50-60 - Section has been amended deleting the timeline for release of a request for proposals to allow more leniency to applicants or the advisory board in the deadline due date.

22VAC30-50-70 - Title of catchline has been streamlined from "Appointment of grant reviewers and technical advisors" to "Grant reviewers and technical advisors."

22VAC30-50-80 - Section has been amended to stress that grant funds for rehabilitative services are to be used for the development of innovative, community-based rehabilitation programs and services and that when grant funds are not to be used for the long-term funding of research projects or service programs.

22VAC30-50-90 - Review of applications; stated priorities. This section has been amended to state that the advisory board may fund applicants who seek funds for research projects relevant to rehabilitative as well as medical inquiry. Additionally the detail under Option B was modified in an attempt to make submission requirements clear.

22VAC30-50-100 - Reviewing and ranking grant applications. The inclusion of an itemized list of weighted criteria with point values assigned to each criterion has been changed to an unweighted list of criteria, with specific point values to be assigned in the individual requests for proposals.

22VAC30-50-110 - Amount of grant awards; duration and availability of funding. A statement was added that provides that the selection of successful applications will be based on available moneys in the fund, the review and ranking of the applications by the advisory board, as well as information from grant reviewers or technical advisors appointed by the board.

22VAC30-50-120 - Unexpended funds. This new section has been added as the result of a 2005 budget amendment, which states that the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.*
- If there are no disadvantages to the public or the Commonwealth, please indicate.*

The proposed regulatory action will provide citizens, applicants, consumers of services and their advocates with information on the Commonwealth Neurotrauma Initiative Trust Fund. The primary advantage of this regulatory action is that the integrity of the Commonwealth Neurotrauma Initiative Trust Fund will be maintained. This action provides an objective means of reviewing and ranking applications to the fund while allowing for flexibility in distributing the funds during times of economic change. No disadvantages to the public or the Commonwealth have been identified.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

No changes have been made since the proposed regulations were published.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comments received after the publication of the proposed regulation

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

Enter any other statement here

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Does not contain the Words Trust Fund in the definition of "Advisory board" States that an RFP is published.	"Advisory board" means the Commonwealth Neurotrauma Initiative <u>Trust Fund</u> Advisory Board. Changed to state that an RFP is issued by the advisory board instead of published and adds that the fund is grant money.
20		The Commonwealth of Virginia has recognized the need to prevent traumatic spinal cord and brain injuries and to improve the treatment and care of persons with traumatic spinal cord injuries and brain injuries Makes funds available to address these needs Seeks to administer the funds	The Commonwealth of Virginia is committed to improving the treatment and care... Makes grant funds available to address these needs Administers the funds. The fund is now established and has provided grant money to applicants.

30			Title of catchline has been changed to Disbursement of funds to more adequately describe this section. Adds a phrase that funds are to be used for the development of innovated programs and services for individuals with neurotrauma. Wording has been changed to ensure that "person first" language is used in the regulations.
40		No Change	
50			Technical and grammatical changes in wording to make section easier to read.
60		The advisory board will solicit applications for grants of moneys from the fund by publishing requests for proposals	The advisory board will solicit applications for grants of moneys from the fund by <u>issuing</u> requests for proposals
70			Title of catchline has been streamlined from Appointment of Grant reviewers and technical advisors to Grant reviewers and technical advisors. The section stating that reviewers and advisors shall be appointed so as to provide equal representation from Virginia's three medical schools has been deleted.
80			Section has been amended to stress that grant funds for rehabilitative services are to be used for the development of innovative, community based rehabilitation programs and services and that grant funds are not to be used for the long term funding of research projects or service programs.
90		Only mentions that priority may be given to applicants seeking fund for projects relevant to medical inquiry.	This section has been amended to state that the advisory board may give priority to applicants who seek funds for research projects relevant to rehabilitative inquiry as well as medical inquiry. This allows the board to consider applications from rehabilitative programs that do not contain a medical component. Emphasizes that the board may give priority to applicants who propose to provide services to persons with neurotrauma when the applicant demonstrates that the proposed project is not duplicated by other programs and when it is demonstrated that no other funds are available for the project.
100		The criteria for ranking applications was included in this section.	The criteria for ranking was removed from this section. In its place is a statement that applications will be ranked according to their satisfaction of the criteria in the request for proposal. This allows the advisory board flexibility in writing and issuing requests for proposals.
110		The selection of successful applications will be made based on availability of moneys in the fund and the criteria listed in this chapter	Statement added that in addition to available moneys in the fund, the selection of successful applications will be based on the review and ranking of the applications and information from grant reviewers or technical advisors appointed to assist in reviewing and ranking applications. This statement provides a listing of the criteria used to rank applications.
	120		As the result of a budget amendment to the Code of Virginia, a new section has been added to this

			<p>regulation to state that the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.</p>
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Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation is mandated by state law and there are no applicable alternative regulatory methods. DRS invited input from providers and other stakeholders as the amendments were developed. The proposed changes were recommended by Commonwealth Neurotrauma Initiative Trust Fund Advisory Board to improve administration of the CNI Trust Fund while simplifying the application process for grantees. The existing reporting requirements provides at least 60 days for applicants to submit applications for grant money after a request for proposal is issued. Applicants must demonstrate in their application for funds how they will carry out the intention of the fund. Applicants must also include a system for measuring outcomes of their proposed projects and for documenting project impact and effectiveness.

There is no projected adverse impact on small businesses. Unless a small business intends to apply for grant funds to conduct research into the mechanisms of neurotrauma or provide treatment for persons with neurotrauma, the amendment does not apply to small business.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation is not expected to have a direct impact on families. However, a positive indirect impact is expected in that the regulation will assist in providing treatment and research into therapeutic techniques to help persons recover as much as possible from neurotrauma. Treatment and any therapeutic techniques that are developed as a result of research would help reduce related health and welfare problems that occur as a result of neurotrauma